

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
N/E cor. Greenspring Avenue * ZONING COMMISSIONER
at Hillside Drive *
3rd Election District * OF BALTIMORE COUNTY
3rd Councilmanic District *
Gordon E. Sugar, Legal Owner * CASE # 93-57-SPH
Joan R. McMahon *
Petitioner/Lessee *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing filed by Joan R. McMahon, Lessee and Gordon E. Sugar, property owner, for that parcel of land located at the northeast corner of the intersection of Greenspring Avenue and Hillside Drive. Within the Petition, Mrs. McMahon requests that a use permit be issued to her to operate a farmer's roadside stand, pursuant to Sections 500.7 and 404.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). This is the inaugural case before this office requesting interpretation of the revised provisions of Section 404 of the B.C.Z.R. That section sets forth those standards necessary for the operation of certain agricultural retail operations.

The Petitioner, Joan R. McMahon, appeared and testified at the public hearing, and was represented by Robert A. Breschl, Esquire. Also appearing on behalf of the Petitioner was Paul Lee, the Engineer who prepared Petitioner's Exhibit No. 1, the site plan to accompany the Petition for Special Hearing. Also appearing and testifying in support of the Petition were several residents/patrons of Ms. McMahon's produce stand operation. They included Lawrence Garten, Dale Levitz, Walter Buck, Carolyn Stewart and Eleanor May. Appearing in opposition to the Petition was Joel Koman. Mr. Koman was represented by Lloyd D. Lurie, Esquire. Pursuant to Section

404.4.C.7, Mr. Koman filed a formal request for a public hearing to determine the propriety of Mrs. McMahon's operation. He indicated that he does not object to Mrs. McMahon's operation, per se, only wants assurance that she is in compliance with the relevant provisions of the B.C.Z.R.

As indicated heretofore, the current version of Section 404 of the B.C.Z.R. is of recent vintage and was enacted by the County Council under Bill No. 41-92. That bill comprehensively amended the regulation of farm stands and similar agriculture/retail operations. As was testified at the hearing by Wallace Lippincott, a member of the Agriculture Land Preservation Board, the legislation was enacted to classify and clarify farm and related retail operations in Baltimore County.

Mrs. McMahon has filed her Petition seeking a use permit to operate a farmer's roadside stand at the subject location. A farmer's roadside stand is defined within Section 101 of the B.C.Z.R. as "an accessory structure owned and operated by an agricultural producer, used for the sale of indigenous farm products, the majority of which have been grown on the premises, adjacent land or on properties farmed by the same agricultural producer." As noted above, roadside stands are permitted only after the owner/operator has demonstrated that he/she has complied with the terms of Section 404.4 of the B.C.Z.R. That section requires that a 35 ft. setback from the nearest edge of the street pavement be maintained (Sec. 404.4.A) and that the stand may have total signage not to exceed 25 sq. ft. per side in area (Sec. 404.4.B). Additionally, the regulation (Sec. 404.4.C) offers a three prong test to determine whether a prospective farmer's roadside stand should be permitted.

The first prong of the aforementioned test requires that the stand be physically located on a farm. In this regard, evidence and testimony was

offered from a number of witnesses, including Mr. Lee, the Engineer, and residents of the subject locale. As is shown on the site plan, the stand occupies a small parcel of .136 acres on the northeast corner of the intersection of Hillside Road and Greenspring Avenue. This parcel is but a small portion of a tract which is designated within the Land Records of Baltimore County as a subdivision known as Rogerdell. However, the subdivision has never been residentially developed and the acreage is presently used to for farming operations. Thus, it is clear, based upon the evidence and testimony presented, that the Petitioner has satisfied the first prong of the test.

The second prong of the test set forth in Section 404.4.C.2 requires that the "owner" be an agricultural producer. A question is immediately raised as to whether the term "owner", in this instance, means the landowner (Mr. Sugar) or the operator of the farmer's roadside stand (Mrs. McMahon). Although the language of regulation does not directly answer that question, it may be inferred that the legislation means the proprietor of the business when it refers to an owner. This intent is clearly manifested by language elsewhere in the regulation which allows the business proprietor to sell produce not grown on the subject property.

Considering this requirement in that light, there was sufficient testimony from Mrs. McMahon establishing that she is an agricultural producer. Specifically, she stated that she owns approximately 24 acres of land near Pokomoke City on the Eastern Shore of Maryland. She resides on that property with her family and conducts active farm operations thereon. She further testified that an additional farm is leased by her near that location. Clearly, based on this uncontradicted testimony, Mrs. McMahon considers her vocation to be that of a farmer and thus she qualifies as an agricultural producer.

The third prong presented (Sec. 404.4.C.3) presents the most difficult issue. That portion of the regulation provides that, at the least, 50% of the produce sold annually at the subject farmers roadside stand shall be grown on the premises where the stand is located, or on adjacent farms, or on other property farmed by the applicant. Clearly, it is the intent of the regulation to limit farmer's roadside stands to be operations by the farmers who produce the crops and not retail middle men. This requirement of the regulation was no doubt included to foster farm operations and the sale of the products directly to the public, while preventing inappropriate retail operations in rural zones. It is further to be noted that the regulation goes on to state, in Section 404.4.C.3(b) thereof, that the Zoning Commissioner's enforcement of the test found in this third prong shall be based upon the recommendation of the Agricultural Land Preservation Advisory Board.

In this respect, testimony was received from Wallace Lippincott, a member of that Board. Mr. Lippincott testified that Mrs. McMahon approached his Board about the subject use permit in the Spring of 1992. The Board investigated Mrs. McMahon's operation, including the sending of a Board member to briefly inspect Mrs. McMahon's Eastern Shore operation. Apparently, after considering the evidence which she was presented, the Board as a whole was unconvinced that Mrs. McMahon satisfied the third prong of this test. Within their report as to whether Mrs. McMahon satisfies this regulation, the Board concluded, "On the face value, what was submitted appears valid, however, based on the experience of the Board members, it does not appear as if the applicant will produce a majority of what will be sold at a viable market operation."

In examining the third prong closely, it is clear that the applicant may satisfy that test by three (3) means; namely, by selling produce actual-

ly grown on the premises where the stand is located, or by sale of produce grown on adjacent farms, or produce raised on other farms owned by the applicant. Mrs. McMahon admitted that she does not fit either of those first two basis to satisfy this prong. That is, although the stand is located on a farm, none of the produce is raised at that site. Further, none of the produce sold comes from adjacent farms. Instead, Mrs. McMahon alleges that a majority of the produce sold at her stand is raised on her Eastern Shore properties.

Notwithstanding her contention, Mrs. McMahon was unable to offer little in the way of traditional documentary evidence. As counsel for Mr. Koman correctly noted, verified receipts, business records and/or tax returns would be most valuable in supporting the Petitioner's contention that the majority of her produce is grown on her Eastern Shore farm. Although this information is preferable, Mrs. McMahon neither maintains such records or was able to present them. In lieu thereof, she did, however, present a hand drawn chart which was prepared by her and is identified as Petitioner's Exhibit No. 5. Although, self explanatory, the chart was used to summarize the types and amounts of crops grown by Mrs. McMahon on her Eastern Shore farm and sold on the subject site. Mrs. McMahon explained that she rotates the crops planted within her fields to produce vegetables at different times of the year. For example, as the chart shows, approximately 35% of the total yield of her farm is corn and that crop is harvested mainly in the late Summer and Fall growing seasons. In early Spring and Summer, the Petitioner's fields yield other crops. Thus, as shown on the chart and based upon her experience, Mrs. McMahon believes that, at least, 52.6% of the product sold at her farmer's roadside stand is produced by her on her Eastern Shore farm.

As indicated above, when this information was presented to the members of the Agricultural Land Preservation Board, many of whom are farmers, they were unconvinced of its accuracy. Thus, although they accepted same at face value, they could not endorse the Petitioner's conclusions due to their collective employment experience. Notwithstanding my appreciation of the Board members' collective experience, I must adjudge the merits of this case based upon the evidence before me. Although helpful, the innate experience of the members of the Board is not a substitute for the direct evidence presented by the Petitioner. In this instance, I find Mrs. McMahon's testimony both uncontradicted and credible. There is nothing in the record before me to dispute Mrs. McMahon's contention that she raises over 50% of her crops sold at the stand other than some apparent uneasiness as to the accuracy of that assertion by the Agricultural Land Preservation Board members. Lacking a more definitive statement from them, or evidence presented to the contrary, I must conclude that Mrs. McMahon satisfies the third prong of the test presented.

Particularly in view of the fact that this is the inaugural case under the legislation created within Bill 41-92, an additional comment is appropriate as to the intent of Section 404.4.C.7 of the regulations. This section provides that my enforcement of the third prong of the test set forth above shall be upon the recommendation of the Agricultural Land Preservation Advisory Board. In the instant case, the Board's recommendation was non-definitive and required me to draw my own conclusions based upon the evidence presented. Further, it was clearly not the mandate of the legislation to require me to adopt the Board's recommendation without question. Rather, it is to be used as a factor in my deliberations in determining whether an applicant has met her burden. To consider this regulation in a more restric-

tive manner would be to impinge upon the discretion and authority of the Zoning Commissioner's office.

In addition to the elements of the three prong test listed above, the Petitioner must also satisfy other requirements for a use permit to be issued. Specifically, I must determine whether the proposed use is detrimental to the health, safety or general welfare of the surrounding locale (See B.C.Z.R. Sections 404.4.C.6 and 404.4.C.8.b). In the instant case, the evidence was overwhelming. Clearly, Mrs. McMahon enjoys nearly the unanimous support of the members of the community. Their testimony was that the use is not detrimental to the health, safety and general welfare of the locale. In fact, Mrs. McMahon's business provides a needed and appreciated service to the community. Although specific concerns were raised about traffic congestion, these questions were addressed and satisfied by the Petitioner. I find no evidence that the proposed stand is/will be, in fact, detrimental to the health, safety and general welfare of the community in which it is located.

Under these circumstances and for the reasons set forth above, I shall, therefore, grant the Petition for Special Hearing and order the issuance of the use permit. Moreover, the Petitioner is reminded that she must remain in compliance with the provisions of Section 404.4 of the B.C.Z.R. Particularly, she must continue to meet the standards enunciated in the three prong test described above, as well as comply with the other requirements of Section 404.4 as they relate to setbacks, signage and the nondetrimental effect of the business on the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 21st day of Oct., 1992 that the Petition for Special Hearing for approval of the use permit to operate a farmer's roadside stand, pursuant to Sections 500.7 and 404.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED.

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LES:mmm

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

Baltimore County Government
Zoning Commission
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-4386

October 21, 1992

Robert A. Breschi, Esquire
409 Washington Avenue
Towson, Maryland 21204

Lloyd D. Lurie, Esquire
Suite 2700
The Legg Mason Towers
111 South Calvert Street
Baltimore, Maryland 21202

RE: Petition for Special Hearing
Case No. 93-57-SPH
Gordon E. Sugar, Legal Owner
Joan R. McMahon, Lessee, Petitioner

Gentlemen:

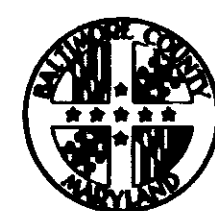
Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mm
att:
cc: Paul Lee Engineering, Inc.
Honorable Dale R. Levitz
Mr. Walter Buck
Mr. Lawrence Garten
Ms. Carolyn Stewart
Ms. Eleanor May
Gordon E. Sugar



Petition for Special Hearing

93-57-SPH
to the Zoning Commissioner of Baltimore County

for the property located at Greenspring Avenue & Hillside Drive,
Northeast corner
which is presently zoned R.C.-2

This Petition shall be filed with the Office of Zoning Administration & Development Management, Baltimore County, Maryland, at the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204, on or before the date of the public hearing on the petition. The undersigned, Petitioner/Lessee on the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a use permit for a farmer's roadside stand operated by Joan R. McMahon at the northeast corner of Greenspring Avenue & Hillside Drive.

Joan McMahon

Property is to be posted and advertised as prescribed by Zoning Regulations. I, Petitioner/Lessee, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Petitioner/Lessee

Joan R. McMahon

4884 Fleming Mill Road

Pocahontas, MD 21851

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ENCLOSURE 1

Paul Lee Engineering, Inc.

Paul Lee Engineering, Inc.
300 W. Pennsylvania Ave.
Towson, Maryland 21204
410-881-5541

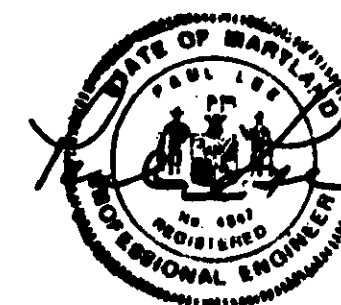
DESCRIPTION

93-57-SPH

5,940 S.F. (0.136 AC.) PARCEL

NORTHEAST CORNER OF GREENSPRING AVENUE AND HILLSIDE ROAD
ELECTION DISTRICT 3
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point located on the east side of Greenspring Avenue, said point also being located Easterly 25 feet ± and Northerly 30 feet ± from the intersection of the centers of Hillside Road and Greenspring Avenue; thence binding on the east side of Greenspring Avenue, (1) Northerly 66 feet ± thence leaving said east side of Greenspring Avenue, (2) Easterly 90 feet ±, and (3) by a line parallel to the first line of this description Southerly 66 feet ±, and (4) by a line parallel to the second line of this description Westerly 90 feet ± to the point of beginning. Containing 5,940 square feet (0.136 ac.) of land, more or less.



Engineers - Surveyors - Site Planners 6/10/92

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 3rd Date of Posting: 9/1/92
Posted for: Special Hearing
Petitioner: Gordon E. Sugar & Joan R. McMahon
Location of property: NE corner of Greenspring Ave. & Hillside Dr.
Location of sign: 400 W. Pennsylvania Ave. & Hillside Dr.
Remarks: Petition for Special Hearing
Posted by: Lawrence E. Schmidt
Number of signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 9/16/92

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/16/92.

THE JEFFERSONIAN,

S. Lake Underhill
Publisher

\$293.23



Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150

Number

93-57

Please Make Checks Payable To: Baltimore County
BA 0000-05AM09-23-92 \$64.33

Cashier Validation



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150

Number

Date: 8/20/92

SUGAR, Gordon
SPECIAL HEARING (FRS#1)

Greenspring Ave @ Hillside Dr NE Corner

Challenger to Farmers Roadside Stand 250.00

Please Make Checks Payable To: Baltimore County
BA 0010-05AM09-20-92 \$250.00

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 9/14/92

Joan R. McMahon
4884 Fleming Mill Road
Pocahontas, Maryland 21851

RE:
CASE NUMBER: 93-57-SPH
NE Corner Greenspring Avenue at Hillside Drive
3rd Election District - 3rd Councilmanic
Legal Owner(s): Gordon E. Sugar
Petitioner/Lessee: Joan R. McMahon
HEARING: MONDAY, OCTOBER 5, 1992 at 2:00 p.m. in Room 118, Old Courthouse

Dear Petitioner(s):

Please be advised that \$64.33 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Call Joan

ENCLOSURE 1

cc: Robert A. Breschi

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 28, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-57-SPH
NE Corner Greenspring Avenue at Hillside Drive
3rd Election District - 3rd Councilmanic
Legal Owner(s): Gordon E. Sugar
Petitioner/Lessee: Joan R. McMahon
HEARING: MONDAY, OCTOBER 5, 1992 at 2:00 p.m. in Room 118, Old Courthouse

Special Hearing to determine whether or not the Zoning Commissioner should approve a use permit for a farmer's roadside stand.

Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Gordon E. Sugar
Joan R. McMahon
Robert A. Breschi

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

September 29, 1992

(410) 887-3353

Robert A. Breschi, Esquire
409 Washington Avenue
Towson, MD 21204

RE: Item No. 70, Case No. 93-57-SPH
Petitioner: Gordon E. Sugar, et al
Petition for Special Hearing

Dear Mr. Breschi:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Your petition has been received and accepted for filing this
20th day of August, 1992

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:
W. Carl Richards Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Gordon E. Sugar, et al
Petitioner's Attorney: Robert A. Breschi



7920-92
JW

DPM/Developers Engineering Division (Public Services) 09/08/92
Development Review Committee Response Form
Authorized signature *Donna H. King* Date *9/8/92*

Project Name Waiver Number Zoning Issue Meeting Date
Stonegate at Patapsco (Azeal Property) 6-1-92
90476
ZOM DED TE (Waiting for developer to submit plans first)

COUNT 1

Maiden Choice Associates	54	8/31/92	comment
DED DEPRM RP STP TE			
Lyons Mill Partnership	62		NC
DED DEPRM RP STP TE			
Steven Lewis and Mary Ann Kidwell	63		NC
DED DEPRM RP STP TE			
Revisions, Inc.	64		comment
DED DEPRM RP STP TE			
Donald And Margaret Proeschler	65		NC
DED DEPRM RP STP TE			
Franciaco and Ada Figueroa	66		NC
DED DEPRM RP STP TE			
Pamela H. and Randall W. Perkins	67		NC
DED DEPRM RP STP TE			
Johnny M. Boyles	68		NC
DED DEPRM RP STP TE			
Donald E. and Mary Bell Grempler	69		comment
DED DEPRM RP STP TE			
Gordon E. Sugar	70		NC
DED DEPRM RP STP TE			
Michael and Patricia Perholtz	71		NC

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING AND ZONING
New Courts Bldg - 401 Bowley Avenue, Towson, MD 21204

7920-92
JW

TO: Arnold Jablon, Director
Zoning Administration & Development Management
FROM: Office of Planning and Zoning
DATE: June 29, 1992 - September 2, 1992
SUBJECT: Hillside Road and Greenspring

INFORMATION
Item Number: FRS-1 Work #17 #70
Petitioner: *Joan R. McMahon*
Property Size: Parcel A 5,940 Square Feet
Zoning: RC 2
Requested Action: Farmers Roadside Stand
Hearing Date: 1/1

SUMMARY OF RECOMMENDATIONS:
The petitioner is requesting a Farmer's Roadside Stand to be located on the North-east corner of Greenspring Avenue and Hillside Road.
The Office of Planning and Zoning recommends APPROVAL of the petitioner's request subject to the following conditions.

- As easement for the Northern Central Railroad Right of Way should be labeled as "Baltimore County Greenway Easement" to be used as part of the Greenway system when the County is in a position to implement the System.
- Any structures or parking spaces must be situated in such a manner so as not to impede pedestrian traffic along the Greenway system.
- Only one I.D. sign as required by the Zoning Regulations should be permitted.
- Steel dumpsters or other large trash receptacles should not be permitted to be kept on site. All trash and discarded fruits and vegetables should be removed daily.

Prepared by: *Frances Murray*
Division Chief: *Ernie H. Daniel*
FM:rdn/prh

FRS1.ZAC/ZAC1

RECEIVED
SEP 8 1992
ZONING OFFICE

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: September 4, 1992

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
FROM: Rahee J. Famili
SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: August 31, 1992
WORK NUMBER: 17 #70

Traffic Engineering comments dated June 25, 1992 need to be addressed.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJP/WKL/lvd

RECEIVED
SEP 9 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: September 10, 1992

FROM: J. Lawrence Pilson *JLP:sp*
Development Coordinator, DEPRM

SUBJECT: Zoning Item Work #17
NEC Greenspring Avenue & Hillside Road
Zoning Advisory Committee Meeting of August 31, 1992

The Department of Environmental Protection and Resource Management (DEPRM) offers the following comments on the above referenced zoning item.

DEPRM supports the specified activity in its present form. However, a stream exists immediately adjacent to the subject parcel and we would not support any expansion of the site or any alterations in the use of the site which might impact water quality or riparian habitat.

Permits and Licenses should be contacted about the possible need for toilet facilities.

JLP:sp

JABLON/S/TXTSBP

Baltimore County Government
Fire Department
700 East Joppa Road Suite 901
Towson, MD 21204-5500
SEPTEMBER 1, 1992 (410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: GORDON E. SUGAR

Location: NE/COR GREENSPRING AVENUE AT HILLSIDE DRIVE

Item No.: #17 (LWG) Zoning Agenda: AUGUST 31, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Carl Jerry Grier* Noted and Approved
Planning Group
Special Inspection Division
Fire Prevention Bureau

JP/KEK

RECEIVED
SEP 8 1992

ZONING OFFICE

Department of Recreation and Parks
Development Review Committee Response Form
Authorized signature *John R. McMahon* Date *9/8/92*

Project Name Waiver Number Zoning Issue Meeting Date
Maiden Choice Associates 54 8/31/92
DED DEPRM RP STP TE
Lyons Mill Partnership 62
DED DEPRM RP STP TE
Steven Lewis and Mary Ann Kidwell 63
DED DEPRM RP STP TE
Revisions, Inc. 64
DED DEPRM RP STP TE
Donald And Margaret Proeschler 65
DED DEPRM RP STP TE
Franciaco and Ada Figueroa 66
DED DEPRM RP STP TE
Pamela H. and Randall W. Perkins 67
DED DEPRM RP STP TE
Johnny M. Boyles 68
DED DEPRM RP STP TE
Donald E. and Mary Bell Grempler 69
DED DEPRM RP STP TE
Gordon E. Sugar 70
DED DEPRM RP STP TE
Michael and Patricia Perholtz 71
DED DEPRM RP STP TE
Dr. Edward and Ann Mishner 72
DED DEPRM RP STP TE

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353

August 14, 1992

Robert A. Breschi
DiNenna & Breschi
Suite 600
409 Washington Avenue
Towson, Maryland 21204

RE: C-92-431
FRS-1
HILLSIDE & GREENSPRING
3RD ELECTION DISTRICT

Dear Mr. Breschi:

This is to remind you that you have until August 22, 1992 to have an appointment made to review all relevant data regarding FRS-1.

As you are aware, there is opposition to FRS-1. Comments concerning this case are being directed to:

Gwendolyn Stephens
Room 111
111 W. Chesapeake Avenue
Towson, Maryland 21204

I look forward to the process and outcome of the public hearing process.

Sincerely,
Derek Propolis
Derek Propolis
Zoning Inspector

DP:icer

NOTE: 1) Copy to be made to be made
2) 9 plans

AUG 19 1992

September 28, 1992
Mr. Arnold Jablon
Office of Zoning Administration, Baltimore County
111 W. Chesapeake Avenue
Baltimore, Md. 21204

Dear Mr. Jablon,

On behalf of the Greenspring Valley Association, I am writing to express our association's complete support for Ms. Joan McMahon's requested use permit, FRS-1.

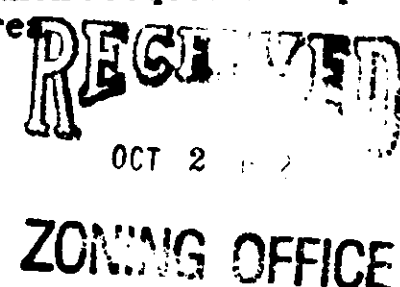
Ms. McMahon has operated a roadside farm produce stand for 16 years at the corner of Hillside Road and Greenspring Avenue. Over the years, she has served many many residents of the area in a friendly pleasant manner, offering produce grown in Maryland. She has improved the appearance of the corner she occupies. Since there is a four-way stop at that intersection, traffic moves slowly in her vicinity and there is adequate off the road parking. Ms. McMahon has complied with the requirements for a roadside stand set out in the Baltimore County Zoning Regulations. She has the support of the owner of the property, Mr. Gordon Sugar.

The request for a public hearing on the permit was made by Mr. Jeff Koman. Mr. Koman and his brother operate a produce stand in Stevenson Village, approximately 2 miles away from Ms. McMahon's location. The two stands draw customers from different traffic patterns, but also compete for some of the same customers.

The only resident who has contacted me in opposition to Ms. McMahon is Mr. Koman's mother, Claire Koman. She stated that her opposition was based on the appearance of the stand and potential traffic hazards. We do not believe that either traffic or aesthetics are a problem.

At least 20 residents of our area have spoken to me in support of Ms. McMahon's request, and many have recently expressed dismay that there needs to be a hearing at all on this issue. The Greenspring Valley Association strongly supports Ms. McMahon's request for a permit to continue serving the residents of this area.

Sincerely yours,
Anita R. Prentice
President



ZONING OFFICE
111 W. CHESAPEAKE AVENUE
BALTIMORE, MARYLAND 21204

JEAN SILBER
11515 Woodland Drive
Lutherville, Maryland 21093
(410) 337-0070



October 1, 1992

Mr. Lawrence E. Schmidt
Commissioner of Zoning
Suite #113
Old Court House
400 Washington Ave.
Towson, Maryland 21204

Dear Mr. Schmidt:

I read with concern the articles in the Baltimore Sun papers about Joan McMahon's produce stand at the corner of Hillside Road and Greenspring Avenue.

Joan's stand has been a neighborhood treasure for years now and it's a darn shame she is being hounded out of there by another produce purveyor.

Joan can always pick out a perfect melon or will tell you precisely how long something needs to ripen. She is a farm woman and knows her stuff, whereas her self-styled competition from Stevenson Village doesn't really know produce.

Nobody requested this hearing on Oct. 5th, only the plaintiff and his mother. Doesn't that say something?

I strongly urge you to grant Joan McMahon the special exception she needs to remain in business.

Sincerely,
Jean Silber

August 7, 1992

Baltimore County Zoning Office
County Office Building
Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case #FRS-1

To Whom It May Concern:

*in the name of human
decency Joan McMahon ought to
be able to continue working where
she has for many years.*

*R.A. Thompson
11111 Green Spring Ave
Pikesville, Md. 21093*



ZONING OFFICE

June 29, 1992

Baltimore County Zoning Office
County Office Bldg.
Room 111
111 W. Chesapeake Ave.
TOWSON, MD 21204

RE: Case #FRS-1

To Whom It May Concern:

*For over fifteen years Joan McMahon has
supplied her multitude of customers with fresh
produce. She is hard working, polite and her
produce is the finest in the area. She has been
part of this community for many, many years
longer than the stand at Stevenson.*

*Today everyone is saying help the small
business. Joan's produce comes from her family's
farm in the Eastern Shore. She does not go to
town and bring out supplies one can find in
any Super Market. They are a hard working
American family and deserve to be supported.
There are plenty of people to be served in
this area. She can in no way harm the Stevenson
operation. Many of us depend on her and count
the days each summer until she returns.
There is no reason to revoke her license.*

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Charles R. Teague	3313 Levee Dr
John Teague	9411 Snyder Rd.
Alma L. Mum	1535 Hillside Road 21053
Mary M-P. Birch	10601 Gundersen Rd Stevenson
Betty R. Pease	12233 Green Road 21153
Caroline C. Such	434 Hillside Rd 21093
Walter B. Birch	939 Hillside Rd 21022
Deborah A. Fleming	3 Buxton Ct 21093
Elizabeth H. Tomlinson	320 Golf Course Rd 21093
Dale E. Balfour	3121 Caves Rd Owings 21046
Dan Roth Lewis	8605 Keller Ave 21093
Eileen S. Goldman	2814 Caves Rd 21093
Marianne L. Leduc	11809 Buxton Rd 21093
CHUCK PAPEN	1035 W. Hillside Rd 21022
Agata J. Leticia	1301 W. Hillside Rd 21022
Lawrence W. Benton	1261 W. Hillside Rd 21022
Shirley M. Leticia	1604 Buxton Rd 21093
Tracy L. Leticia	1604 Buxton Rd 21093
Caroline R. Leticia	1604 Buxton Rd 21093

INTER-OFFICE CORRESPONDENCE

TO: Department of Environmental Protection and Resource Management
FROM: Arnold Jablon, Director, Zoning Administration and Development Management
RE: Farmer's Roadside Stand Use Permit (FRS # 1)

Pursuant to Section 404.4.C (Baltimore County Zoning Regulations), this office is requesting recommendations and verification of a farm location, agricultural producer and legitimacy of the production of a minimum 50% of produce sales at the Farmer's Roadside Stand and any recommended reduction in the minimum 50% due to crop failure, etc. This office would appreciate any additional information that you could provide regarding this application and all of your findings will be taken into consideration prior to any zoning decisions.

APPLICANT SUPPLIED INFORMATION:

Joan R. McMahon 4884 Fleming Mill Rd., MD 21851 410-957-1155
First Name of Stand Operator/Owner Address Telephone Number
Roadside Stand Farm Location: Election District 3 Council District 3 Acres 129
Land Owner Gordon E. Sugar Telephone Number 410-486-6394
Address 1 Pomona North Tax Account Number
Pikesville, MD 21208

A. a signed and notarized affidavit and letter of permission
B. the roadside stand location site plan
C. a copy of the State Tax Map for that area (labeled)

Producing Farm Location(s) (use additional sheets if necessary)

[SEE ATTACHED]

First Name of Owner Address and location Tax Account Number

a copy of the State Tax Map (labeled) for each location

(for additional locations, use the back of this form)

TO BE FILED IN BY AGRICULTURAL LAND PRESERVATION BOARD ONLY

Verification/Recommendations:

Roadside Stand Location Production Locations
Agricultural Producer Production of 50% of Produce Sales
Recommended % Recommended Zoning Special Hearing
Comments

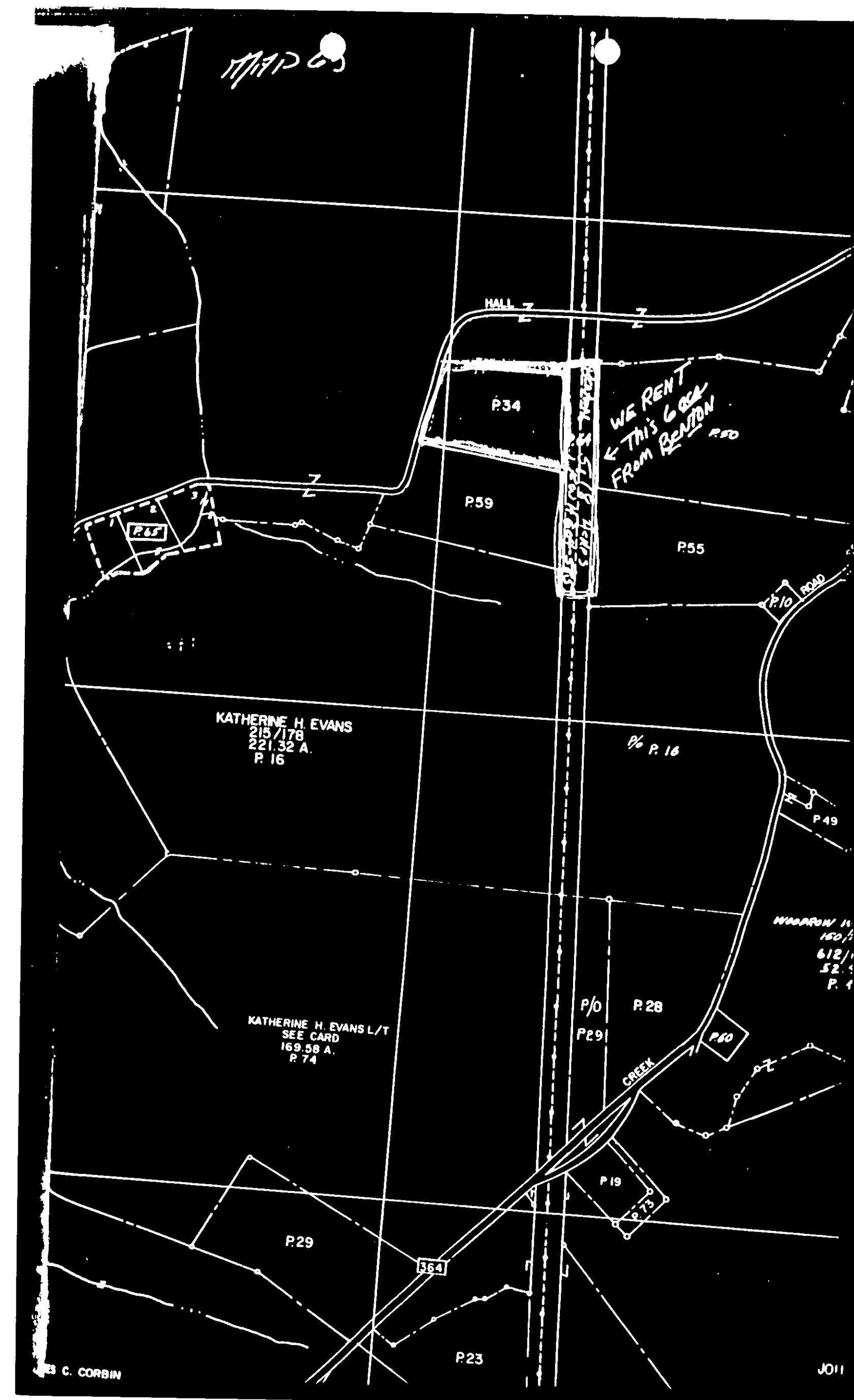
Signature
Representative of the Agricultural Land Preservation Board for Baltimore County

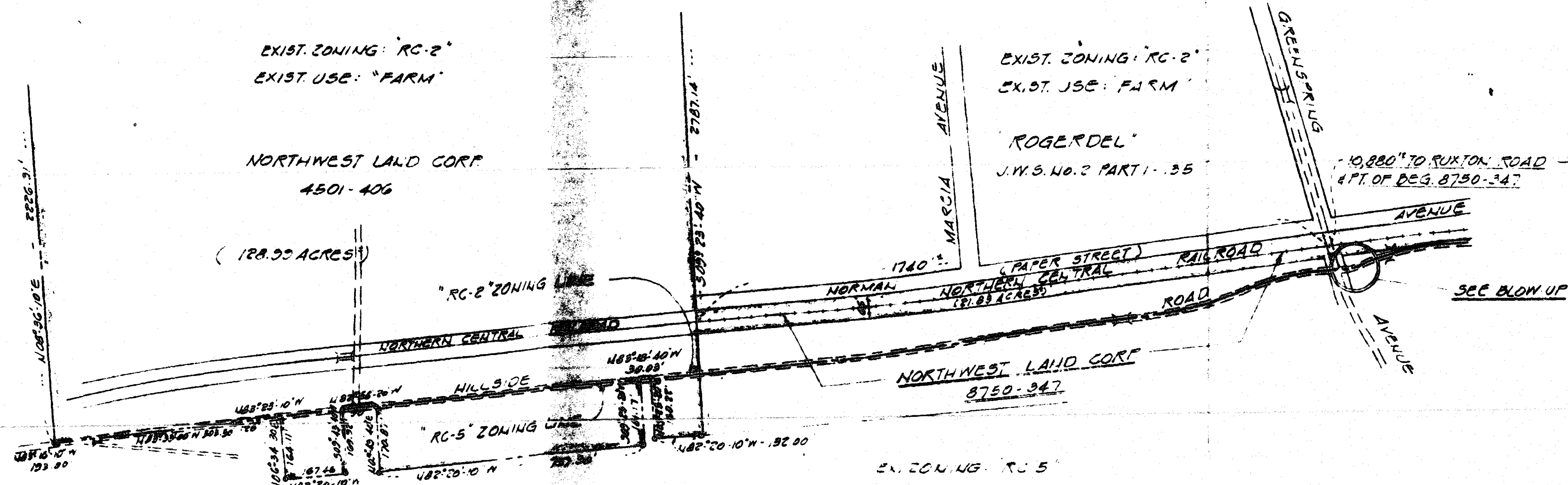
Date:

Farmers Roadside Stand
Owner's Affidavit

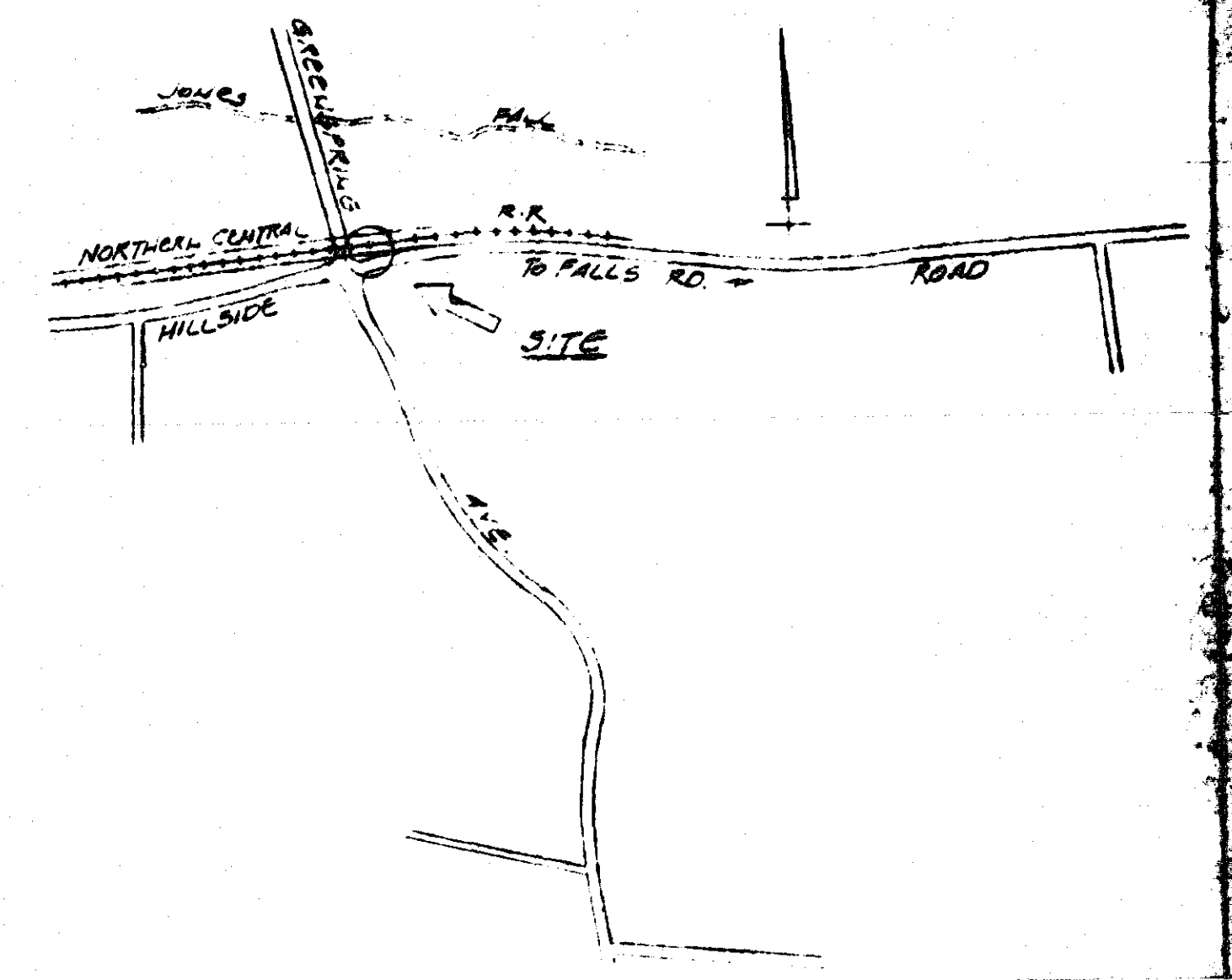
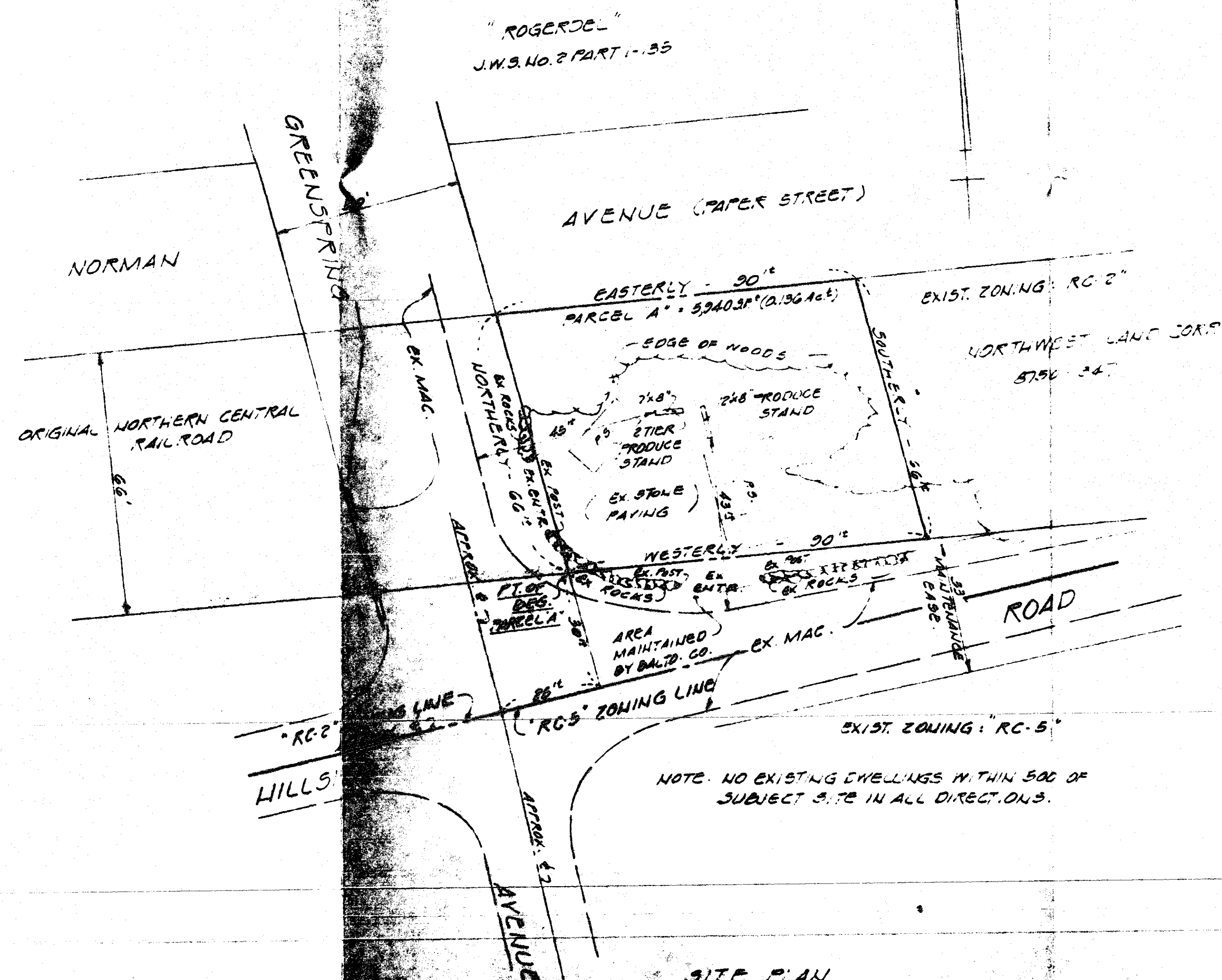
#1 Cont. 30.27 acres in Worcester County as follows:

- (A) 9.43 acres - Map 69 Grd 13 Parcel 72 - on Fleming Mill Rd. (own)
(B) 1.66 acres - Map 69 Grd 13 Parcel 68 - on Fleming Mill Rd. (own)
(C) 14.0 acres - Map 69 Grd 13 Parcel 34 - on Oakhill Rd. (own)
(D) 5.18 acres - Map 69 Grd 13 Parcel 64 - on Oakhill Rd. (rent from Benton)





PROPERTY PLAN
SCALE: 1"=200'



GENERAL NOTES

1. AREA OF PROPERTY: 28.92 + 21.83 + 5.98 AC. PARCEL A: 0.3646 AC. (0.136 AC.)
2. EXISTING ZONING OF PROPERTY: RC-2
3. EXISTING USE OF PROPERTY: "FARM & ABANDONED RAILROAD R/W"
4. PROPOSED ZONING OF PROPERTY: "RC-2"
5. PROPOSED USE OF PROPERTY: PARCEL A: PRODUCE STAND; REMAINDER - FARM
6. REQUIRED OFF STREET PARKING - PARCEL A:
PRODUCE STAND: 1-12' x 8' = 8.04 SF; 2-7' x 8' = 2(56) = 112 SF (TOTAL = 120.04 SF)
REQUIRED NO. P.S. = 120.04 SF @ 5 SF/1000 SF = 0.117 = 1 P.S.
NUMBER OF P.S. SHOWN = 4 P.S.
7. FARMER'S ROADSIDE STAND IS PERMITTED AS OF RIGHT WITH A USE PERMIT IN RC-2 SUBJECT TO THE FOLLOWING CONDITIONS:
A. THE STAND SHALL BE LOCATED ON A FARM.
B. THE OWNER SHALL BE AN AGRICULTURAL PRODUCER.
C. AT LEAST 50% OF THE PRODUCE SOLD ANNUALLY SHALL BE GROWN ON THE PREMISES WHERE THE STAND IS LOCATED, OR ON ADJACENT FARMS OR ON OTHER PROPERTY FARMED BY THE APPLICANT.
1. IN THE EVENT OF CROP FAILURE DUE TO DROUGHT, INSECT DAMAGE, DISEASE, OR OTHER CAUSES BEYOND THE CONTROL OF THE PRODUCER, AS DETERMINED BY THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD, THE 50% MIN. MAY BE DECREASED BY THE ZONING COMMISSIONER TO AN AMOUNT COMMENSURATE WITH THE DEGREE OF CROP FAILURE.
2. IN THE ENFORCEMENT OF SECTION 40A & C.2 THE ZONING COMMISSIONER SHALL MAKE THE DETERMINATION UPON THE RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.
8. ANY PROPOSED SIGN MAY NOT EXCEED 25 S.F. SIDE, NOT TO EXCEED 25 SIDES AND SHALL BE ERECTED AND MAINTAINED ON THE LOT WHERE THE BUSINESS IS LOCATED.
9. APPLICANT HAS OPERATED A PRODUCE STAND AND IN ADDITION HAS MAINTAINED THE SITE FOR 15 YEARS FROM JULY THROUGH NOVEMBER HOURS OF OPERATION: TUESDAY THRU SUNDAY - 3 AM - 7 PM.
10. PRODUCE SOLD AT SITE GROWN ON APPLICANT'S FARM IN WORCESTER COUNTY, MD. DEED REF. 1201-832 274-378, 1016-365 & 215-654 (RELATED PARCELS).
11. PRODUCE STAND HAS BEEN LOCATED ON THE FARM OF NORTHWEST LAND CORP. DEED REF. 4501-406 & 8750-347.

PETITIONER'S
EXHIBIT No 1

PLAT TO ACCOMPANY APPLICATION FOR
USE PERMIT - PARCEL A

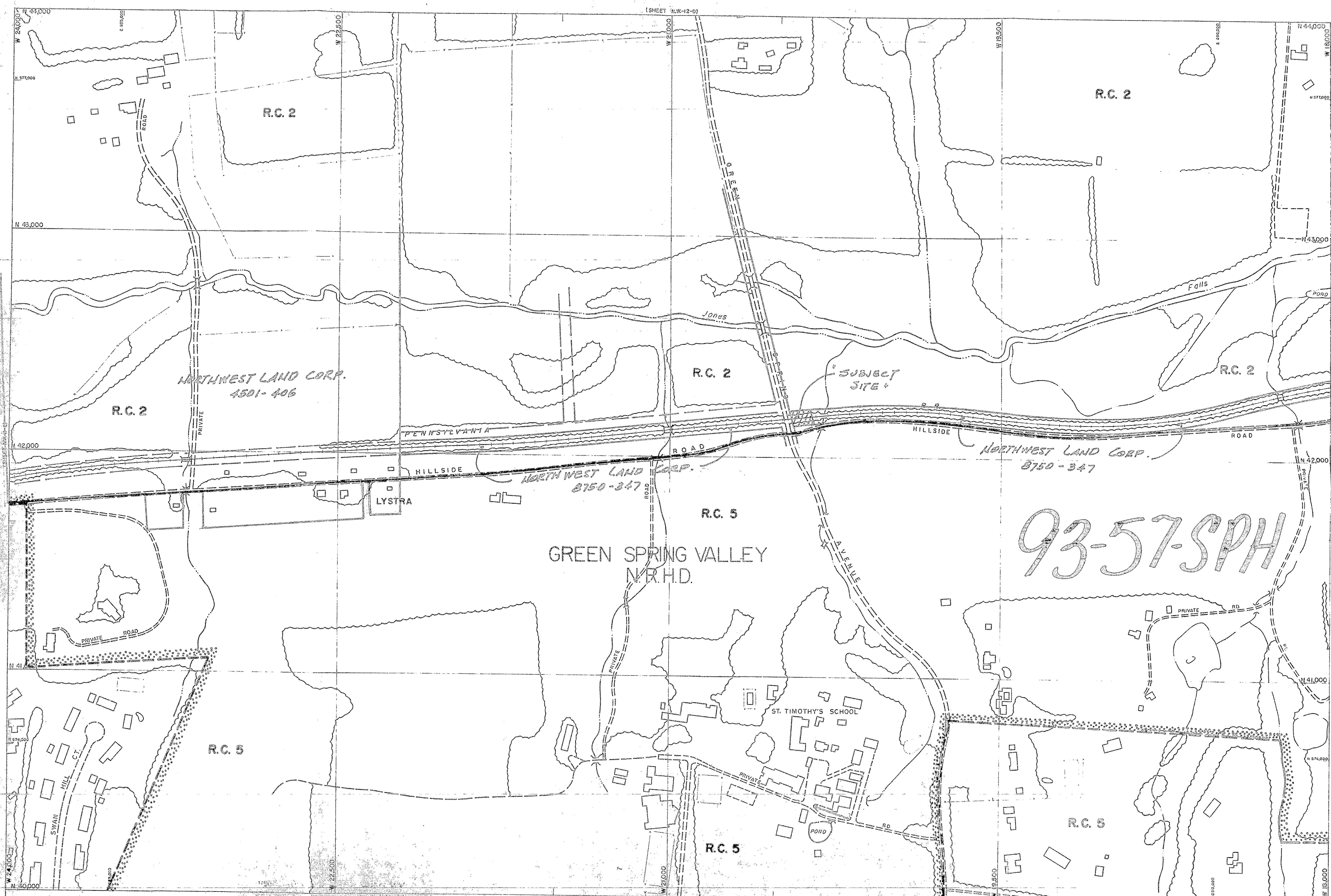
0.3646 AC. PARCEL

N.E. COR. GREENSPRING AVE. & HILL SIDE RD.
ELECT DIST. 9C3 BALTIMORE COUNTY, MD.
SCALE: AS SHOWN JUNE 11, 1972

FRS#1

PAUL LEE ENGINEERING, INC.
304 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204





<p>S-SW O-NW</p> <p>THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210</p>	<p>1986 COMPREHENSIVE ZONING MAP Adopted by the Baltimore County Council Oct. 13, 1986 ON Nos. 144-86, 145-86, 146-86, 147-86, 148-86, 149-86, 150-86 <i>Deborah K. [Signature]</i> Chairman, County Council</p>	<p>BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP</p>	<p>SCALE 1" = 200' ±</p> <p>DATE OF PHOTOGRAPHY JANUARY 1986</p>	<p>LOCATION LYSTRA</p>	<p>SHEET N.W. 11-D</p>
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